

N.D.A.G. Letter to Mathern (Feb. 3, 1989)

February 3, 1989

Honorable Tim Mathern
State Senator
Senate Chambers
State Capitol
Bismarck, ND 58505

Dear Senator Mathern:

Thank you for your letter to me dated January 24, 1989, concerning the application of the corporate farming law to the Church of the Transfiguration.

The ownership of farmland by churches and other nonprofit organizations is governed by the provisions of N.D.C.C. ch. 10-06. That chapter generally prohibits the ownership of farmland by corporations. N.D.C.C. § 10-06-04.1 contains an exception to that prohibition for certain nonprofit organizations. Those corporations that qualify under the statute as nonprofit organizations may continue to hold farmland acquired prior to July 1, 1985, as long as "that land is leased to a person who farms or ranches the land as a sole proprietorship, partnership, or a corporation allowed to engage in farming or ranching under N.D.C.C. § 10-06-07."

A "nonprofit organization" under the statute is one that has tax exempt status under the Internal Revenue Code. N.D.C.C. § 10-06-04.2. I assume that the Church of the Transfiguration fits in that category. It appears from the materials you sent that the land that is the subject of your inquiry was owned by the church as early as 1982. If this is the case, then the property would satisfy the nonprofit organization exception to the general ban on corporate ownership of farm and ranchland. The church would be permitted to continue to own the land as long as it leased the property to a qualified person.

Nonprofit corporations may not acquire farmland or ranchland after June 30, 1985, except for the limited purpose of conserving natural areas and habitats for biota. N.D.C.C. § 10-06-04.3. Any nonprofit organization receiving land by gift or devise after June 30, 1985, has ten years after the acquisition within which to divest itself of the land. N.D.C.C. § 10-06-04.4.

If you have any further questions regarding this matter, do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

cv